

**STATE OF RHODE ISLAND
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

TO: Interested Parties

FROM: Patricia Martinez 
Director
Department of Children, Youth and Families

DATE: November 16, 2009

SUBJECT: DCYF Rules Effective November 16, 2009

The following new and amended DCYF rules are effective November 16, 2009. These rules were advertised for promulgation in accordance with the Administrative Procedures Act (Title 42, Chapter 35 of the Rhode Island General Laws) on January 28, 2009, except Legal Guardianship and Kinship Guardianship Assistance, which was advertised on July 28, 2009. These rules are accessible through the Secretary of State's Rules and Regulations Search Interface (<http://www.rules.state.ri.us/rules/>) and, for a limited period of time, on the DCYF website (<http://www.dcyf.ri.gov>) or available in hard copy upon request (401 528-3686).

Adoption

This amended rule references federal mandates that require consideration of in-state and out-of-state adoption resources for the safe and timely placement of children into permanent homes, criminal background and child abuse and neglect registry checks for prospective foster and adoptive parents and adult members of their households, the placement of siblings together unless it is contrary to the safety or well-being of any of the siblings and notice to prospective adoptive parents about the adoption tax credit.

Adoption Subsidy

This amended rule clarifies that in all cases a child must meet the definition of special needs to be eligible for adoption assistance, reduces the age from twelve (12) to nine (9) as a factor in determining that a child has special needs, clarifies DCYF staff responsibilities in negotiating subsidy with prospective adoptive parents, changes time frame for recertification of subsidy from annually to every two years and provides that if a family moves out of state and a needed service specified in the adoption subsidy agreement is not available in the new state of residence, the Department remains financially responsible to provide that service. As a result of comments received, the final rule includes the following change that was not part of the proposed rule: the Department will continue to provide subsidy until age twenty-one (21) for a child who has a severe, pre-existing physical, emotional or mental disability or physical condition that is unlikely to change.

Child Fatality and Near Fatality Response

This amended rule provides for public disclosure of information relating to child abuse or neglect that has resulted in a child fatality or near fatality. As a result of comments received, the final rule includes the following changes that were not part of the proposed rule: the Child Advocate must be notified immediately of all fatalities and near fatalities of children under DCYF care and supervision, and support services are provided to caretakers who have been affected by the death or near fatality of a child.

Clearance of Agency Activity

This amended rule references federal law requiring child abuse and neglect registry checks for prospective foster and adoptive parents and adult members of their households and provides that an individual with a history of DCYF involvement that is not automatically disqualifying may be denied working or serving in a role subject to a DCYF records clearance if it is determined that the conduct of the applicant impacts upon the fitness and suitability of the individual to provide child care. As a result of comments received, the final rule includes the following changes that were not part of the proposed rule: the Department defined the term visiting resources, referenced federal law requiring child abuse and neglect registry checks for kinship guardians and adult household members, replaced the term

guardianship resource with legal guardian to clarify that we are referencing a guardian of the person of the child, in accordance with RI law, which provides that the Family Court can appoint such a guardian when a child has been placed in the care, custody and control of DCYF.

Comprehensive Assessment and Service Planning

This new rule, which incorporates the provisions of three existing rules that are being repealed (Family Assessment, Service Plan and Assessment of Risk), reflects a process that is guided by principles of family-centered, culturally competent practice and includes procedures for the ongoing assessment of safety and risk management to address child safety, permanency and well-being from the initial point of contact throughout case closure for each child and family receiving DCYF services. As a result of comments received, the final rule includes the following changes that were not part of the proposed rule: the Department included reference to standardized assessments completed by Juvenile Corrections staff for youth sentenced to the RI Training School and federal mandates relating to siblings placement and visitation.

Criminal Records Checks

This amended rule includes federal law provisions requiring nationwide criminal records checks, including fingerprinting, for prospective foster and adoptive parents. As a result of comments received, the final rule includes the following changes that were not part of the proposed rule: the Department defined visiting resources, referenced federal law requiring criminal records checks including fingerprinting for kinship guardians, replaced the term guardianship resource with legal guardian, added language, consistent with related DCYF rules, to clarify that an applicant with a conviction of an offense that is not automatically disqualifying may be denied licensure if it is determined that the conduct of the applicant impacts upon the fitness and suitability of the applicant to provide child care and included reference to a divisional administrative review by the DCYF Licensing Administrator of disqualifying Level 2 criminal offenses, pursuant to the Department's Complaints and Hearings rule, for a child specific kinship caregiver when the Department is seeking to place a child with kin.

Federal Benefits for Children in DCYF Care

This amended rule, in compliance with federal law, requires that citizenship or immigration status is verified for children in foster care.

Interstate Compact on the Placement of Children (ICPC)

This amended rule requires the safe and timely placement of children into permanent homes across state lines. As a result of comments received, the final rule includes the following change that was not part of the proposed rule: language that allowed an extension to the sixty day home study completion requirement was eliminated, in compliance with federal law.

Implementing the Indian Child Welfare Act

This amended rule clarifies, in accordance with federal law, that the Tribe makes the final determination, which is sanctioned by the Family Court, for placement of a child when, for good cause, there is deviation from the placement preferences established in rule.

Kinship Care

This amended rule references all federal requirements relating to background checks and sibling placement and visitation, provides, in compliance with RI law, that DCYF can authorize placement in a kinship home pending licensure for a period not to exceed six months, provided that DCYF and statewide criminal records checks have been conducted, and includes procedures for the preliminary assessment of a kinship home when an emergency placement is made pending licensure. As a result of comments received, the final rule includes the following changes that were not part of the proposed rule: the definition of kin was expanded to include caretaker, reference to provisions of federal law authorizing the kinship guardianship program and requiring notice to relatives when a child is removed from home were added and language was revised to clarify that if a kinship applicant or household member has a history of DCYF involvement or criminal activity, the licensing worker must review this information with supervisor to determine if the licensing process should proceed. The rule requires that the DCYF worker must see the child's sleeping quarters prior to placing the child, and the provision that foster board "will" be

terminated was changed to "may" be terminated if the licensing process is not completed within six months of the child's placement in the kinship home.

Legal Guardianship and Kinship Guardianship Assistance

This new rule provides procedures to implement the provisions of federal and state law relating to legal guardianship and guardianship assistance. Federal law authorizes the Guardianship Assistance Program, which allows states to provide kinship guardianship assistance payments to kin who assume legal guardianship of children for whom they have cared while foster parents. RI law allows the Family Court to appoint a guardian for a child if the child has been placed in DCYF care and also allows for the provision of guardianship assistance.

Licensing of Foster Care Homes

This amended rule updates procedures, in compliance with state and federal law for licensing foster care homes. As a result of comments received, the final rule includes the following change that was not part of the proposed rule: language was revised to clarify that the licensing worker must review any history of DCYF involvement or criminal activity of an applicant or household member with supervisor to determine if the licensing process should proceed.

Locating and Engaging Absent Parents

This new rule, in compliance with federal and state law, outlines procedures for DCYF staff to use in their efforts to identify, locate and engage absent parents and potential relative resources.

Obtaining Custody of Child through the Dependency/Neglect/Abused Petition

This amended rule, in compliance with federal law, requires that a child be consulted, in an age-appropriate manner, during the permanency hearing regarding proposed permanency or transition plan and that the permanency hearing address whether DCYF has made reasonable efforts to finalize the child's permanency plan, considering in-state and out-of-state permanent placement options.

Transfer and Dual Supervision of Youth by Juvenile Probation and Family Services

This amended rule clarifies roles and responsibilities of DCYF Juvenile Probation and Family Services staff relating to the transfer and dual supervision of youth.

Worker/Client Contact

This amended rule addresses caseworker visits for children who are in foster care and requires the safe and timely placement of children into permanent homes across state lines. As a result of comments received, the final rule includes the following change that was not part of the proposed rule: language was added to clarify which DCYF staff can provide monthly caseworker visits.

If you have any questions or concerns relating to this distribution, please contact Dorothy Hultine, Implementation Director for Policy & Programs by phone (528-3549) or e-mail (Dorothy.Hultine@dcyf.ri.gov).

Thank you for your attention to this matter.